



26th

DAY OF

October

2020

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ENGR. PROF. BABAGANA UMARA ZULUM MNI, FNSE
GOVERNOR
BORNO STATE OF NIGERIA

BORNO STATE FISCAL RESPONSIBILITY AGENCY, LAW 2020

A LAW TO PROVIDE FOR THE ESTABLISHMENT OF BORNO STATE FISCAL RESPONSIBILITY AGENCY, LAW 2020

ENACTED by the Borno State House of Assembly as follows:-

PART I: PRELIMINARY PROVISIONS

- | | |
|---------------------------|---|
| Citation and Commencement | 1. This Law may be cited as the Borno State Fiscal Responsibility Law and shall come into operation on the... ^{26th}Day of... ^{October}2020 |
| Interpretation | 2. In this Law unless where the context otherwise requires:-

<p>“AGENCY” means the Fiscal Responsibility Agency established pursuant to section 3(1) of this Law.</p> <p>“Appropriation” means duly enacted Law by the House of Assembly pursuant to Section 121 of the Constitution of the Federal Republic of Nigeria 1999 (as amended) and includes a Supplement Appropriation Law;</p> <p>“Arms of Government” means the Executive, the Legislature and the Judiciary of the State</p> <p>“Attorney-General” means the attorney-General and Commissioner for Justice and the Chief Law Officer of the State;</p> <p>“Borrowing” means any financial obligation arising from,</p> <p>(i) Any loan, including principle, interest, fees and penalties relating to such loan;</p> <p>(ii) The deferred payment for goods and services pursuant to an Appropriation Law under a contract which fully complies with the state procurement Law;</p> <p>(iii) Bonds, debentures, note or similar instructions;</p> <p>(iv) Letters of credit and reimbursement obligation with respect thereto;</p> |

- (v) Trades or banks acceptances;
- (vi) Capitalized amounts of pecuniary obligations under leases entered into acquisition of the assets leased;
- (vii) Agreement providing for swaps ceiling rates and floor rates, contingent participation or other hedging mechanism with respect to the payment of the interest or the convertibility of currency; and
- (viii) A conditional sales agreement, capital lease or other title retention agreement;

“Budget Law” means a duly enacted law on Budgeting for the state.

“Business day” means a day other than a Saturday or Sunday or a public holiday specified pursuant to the public Holidays Act or otherwise specified by the Governor of the State,

“Commissioner” means the Commissioner charged with responsibility for finance or such other Commissioner as the Governor may by notice publish in a gazette specify.

“Concessional Term” means terms of loan at an interest rate not exceeding 3%;

“Consolidated Debt” means the aggregate of outstanding financial obligations of the State or Local Government including those of their parastatals, departments and agencies arising from any borrowing or the crystallization of contingent liabilities;

“Constitution” means the Constitution of the Federal Republic of Nigeria 1999 (as amended);

“Consolidated Revenue Fund” has the same meaning as the assigned to it section 120 of the Constitution;

“Cost benefit Analysis” means a detailed and comprehensive analysis and comparison of the cost of a project or program with benefits that residents of the state are likely to derive from the project or program;

“Fiscal Policy” means the goals set by government for attainment of set of targets for given period.

“Fiscal Risk” means provision of numerical target for each risk indicator with which a fiscal entity will be considered fiscally healthy.

“Financial Year” means the same meaning ascribed thereto in the Constitution;

“Independent rate” means a rating conducted by a credible and renewed rating independent of the state Government;

“Governor” means the Governor of the State.

“Government Owned Company” means a State statutory corporation, Government Agency or a company on which Government has controlling interest;

“House of Assembly” means the State House of Assembly

“Medium Term Expenditure Framework” means the document referred to and the contents of which is prescribed in part III of this Law

“Persistent Short fall” means revenue shortfall occasioned by a sustained fall;

“Public Expenditure” means outlays other than those resulting into debt reduction;

“Public Revenue” means all moneys received by a government in the Federation;

“Reference Commodity Price” means such price as may be determined by the president of the Federal Republic of Nigeria, subject to approval of National Assembly;

“Sectoral Resource Envelop” means a specified amount within the limits of the aggregate expenditure limits earmarked by the Governor for sector reflecting the priority level accorded to the services to be delivered by the sector;

“State” means Borno State of Nigeria;

“State Government” means the Government of the State;

“State Procurement Law” means the duly enacted Law of the State on Public procurement and other matters connected therewith;

“Sustained fall” means concessions and waivers of taxes, duties and other revenues that ought in the ordinary course of things accrue to the state.

“Tiers of Government” means the Local, State and Federal Governments.

“Chairman” shall include Members Vice Versa.

“Amortization” means spreading payments over multiple periods

PART II: GENERAL PROVISIONS

Establishment
of Fiscal
Responsibility
Agency

3(1). There shall be established for the State a body to be known as the Borno State Fiscal Responsibility Agency.

(2) The Agency shall be a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name

Functions of
the Agency

4(1). The Agency should perform the following functions:-

- a. Monitor and enforce the provisions of this Law and by so doing, promote the economic objectives contained in Section 16 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended);
- b. Disseminate such standard practices including international good practice that will result in greater efficiency in the allocation and management of public expenditure, revenue collection, debt control and transparency in fiscal matters;
- c. Undertake fiscal and financial studies, analyses, diagnoses and disseminate the result to the relevant authorities;
- d. Ensure returns on revenue performance showing estimates, actual collection and remittance to the State Consolidated Revenue Fund by the Ministries, Departments, Agencies and Corporations by attaching hard evidence of collections and remittance;
- e. Ensure monthly monitoring meeting of all the revenue collectors with representative of the Ministry of finance and Economic Development;
- f. Ensure the maintenance of proper books of accounts (particularly for remittances paid through the e-payment and follow-up by the prescribed treasury cash book) and prompt issuance of receipts paying agencies;
- g. Make rules for carrying out its functions under this Law; and
- h. Perform any other function consistent with the promotion of the objectives of this Law.

- i. There shall be for the Agency the following departments:-
 - (a) Administration and Supplies;
 - (b) Finance and Accounts;
 - (c) Policy and Standard;
 - (d) Monitoring and Evaluation and
 - (e) Planning, Research and Statistics

2. a. Compel any person or government institution to disclose information relating to public revenues and expenditure; and
- b. Cause an investigation into whether any person has violated any provision of this Law.
- c. The Agency shall be independent in the performance of its functions.

Powers of
the Agency

- 5(1). The Agency shall have the following powers:-
 - a. Formulate and provide general policy guidelines for the discharge of the functions of the Agency;
 - b. Superintend the implementation of the policies of the Agency;
 - c. Appoint for the Agency, such number of employees as may in the opinion of the Agency be expedient and necessary for the proper and efficient performance of the functions of the Agency;
 - d. Determine the terms and conditions of service in the Agency including disciplinary measures for the employees of the Agency in accordance with laid down regulations;
 - e. Fix the remuneration, allowances and benefits of the employees of the Agency as approved by the State Government;
 - f. Do other things, which in its opinion are necessary to ensure the efficient performance of the functions of the Agency; and
 - g. Regulate its proceedings and make standing orders with respect to the holding of its meetings, notices to be given,

the keeping of minutes of its proceedings and such other matters that the Agency may, from time to time, determine.

Funds of the Agency

- 6 (1). The Agency shall establish and maintain a fund from which shall be defrayed all expenditures incurred by the Agency.
- (2) There shall be paid and credited to the fund
- (a) All budgetary allocations from the state government;
 - (b) All grants from any other source which must also be appropriated accordingly by the state legislature
 - (c) All monies raised by the Agency by way of fees for services rendered, loans or otherwise; and
- (3) The agency may accept gifts of land, money or other property (whether within or outside Nigeria) upon such terms and conditions, if any, as may be specified by the person or organization making the gift provided that the terms and conditions are not contrary to the objectives and functions of the Agency under this Law.

Establishments
Composition and
Qualification of
Members of the
Board of the
Agency

- 7(1). The Agency Shall consist of:-
- a. A Chairman, who shall be the Chief Executive of the Agency;
 - b. One Member Representing:
 - i. The organized private sector;
 - ii. The organized labour;
 - iii. Civil Society engaged in causes relating to probity, transparency and good governance;
 - c. A Representative of the Ministry of Justice not below the rank of Director;
 - d. A Representative of the Ministry of Finance and Economic Development not below the rank of Director
 - e. One member representing each of the three senatorial zones of the state.
- ii. All members of the Agency shall be persons of proven integrity with not less than 10 years cognate post qualification experience and should at least possess National Diploma.

- iii. The Chairman and other members of the Agency other than ex-officio members shall be appointed by the Governor, subject to confirmation by the State House of Assembly.
 - iv. The Chairman and members representing the three Senatorial Districts shall be full time members.
- Office of Secretary
8. The Agency shall have Executive Secretary who shall be the accounting officer for the day to day administration of the Agency.
- Tenure of office
9. The Chairman and the full time members of the Agency shall hold office for a single term of five (5) years.
- Regulation and /quorum of the Agency
- 10(1). The Agency shall have power to make regulations and standing orders with respect to the holding of its meetings, notice to be given, the keeping of minutes of its proceedings and such other matters as the Agency may, from time to time determine
- (2) For the official sittings of the Agency, there shall be two third (2/3) of the members in attendance.
- (3) The Governor shall in consultation with the Agency make regulations for the purpose of giving effect to the provisions of this Law.
- Vacation from office of a member
- 11(1). Notwithstanding the provision of section 9 of this Law, the Chairman or any member shall cease to hold office if:-
- (a) he becomes bankrupt or makes compromise with his creditors;
 - (b) he is convicted of a felony or any offence involving dishonesty, corruption or fraud;
 - (c) he becomes incapable of discharging the functions of his office either by reason of infirmity of mind or body;
 - (d) the Governor is satisfied that it is no longer in the interest of the Agency or that interest of the public that the chairman or member should continue in office;
 - (e) he has been found guilty of violation of the Code of Conduct or gross misconduct in relation to his duties.

- (f) he resigns his appointment by a notice under his hand addressed through the Attorney-General to the Governor; or
- (g) In the case of a person who becomes a member by virtue of the office, he occupies, he cease to hold such office for whatever reason.

Salary and Allowances of Members

- 12(1). There shall be paid to the chairman such salary, allowances and benefits as the Governor may from time to time determine.
- (2) There shall be paid to other members of the Agency such sitting allowances and other benefits as the Governor may from time to time determine.

13 This Law shall be binding on all tiers of government in the state, their parastatals and Agencies howsoever described.

14. All arms and tiers of government shall ensure that their financial and quasi-financial and fiscal affairs are conducted in strict conformity with the provisions of this Law and any other Law relating to the management of public resources.

Government spending to be based on credible expenditure management framework

15. The expenditure of the state shall be directed primarily towards the equitable, efficient and sustainable provisions of public good, social and economic services and infrastructure in the state, and accordingly notwithstanding anything to the contrary contained in this Law, or in any other Law, the state shall ensure that government spending is based on a credible expenditure management framework, which is consistent with the principles of sound financial resources towards the equitable, effective and sustainable provisions of public good; social, economic services and infrastructure in the state.

Expenditure to be based on fiscal frame-work and principles of sound financial

16. Without derogating from the generality of section 15, government expenditure must be based on or derived from and consistent with an underlying medium term fiscal framework, prepared in accordance with the provisions of part III and the principles of sound financial management set

out in the schedule to this Law.

Report of
activities

- 17(1). The Agency shall prepare and submit to the House of Assembly not later than 30th June in each financial year, a report of their activities including all cases of contravention of the Law investigated during the preceding financial year, and shall include in the report a copy of its audited account for the preceding financial year,
- (2) The Agency shall prepare and submit to the Attorney General reports of all investigations relating to contravention of any provisions of this Law.
- (3) The Attorney General may request in writing any report or information in respect of any case which is the subject of investigation by the Agency.

PART III: THE MEDIUM TERM FISCAL FRAMEWORK

Medium Term
Fiscal Framework
to be before
House of
Assembly

- 18.(1) The state Government after consultation with the local Government shall:-
 - (a) not later than six months from the commencement of this Law, cause to be prepared and laid before the House of Assembly for its consideration, a medium term expenditure framework and
 - (b) therefore, not later than four months before the commencement of the next financial years, cause to be prepare a medium term expenditure framework for the next three financial years.
- (2) The medium term expenditure shall contain:-
 - (a) a macro-economic framework setting out the macro-economic projections and an evaluation and analysis of the macro-economic projections for the preceding three financial years.
 - (b) a fiscal strategy paper setting out:-
 - (i) the Government's medium term objectives
 - (ii) the policies of the Government for the medium term

relating to taxation, recurrent (non debt) expenditure, debt expenditure, capital expenditure borrowing and other liabilities, lending and investigation:

- (iii) the strategic economic, social and development priorities and fiscal measures set out pursuant to paragraphs (i), (ii) and (iii) of this subsection related to the economic objectives set out in section 16 of the constitution:
- (c) an expenditure and revenue framework setting out:
 - (i) estimates of aggregates revenue for the state for each financial year in three years based on the predetermined commodity reference price aborted and tax revenue projections;
 - (ii) aggregate expenditure projection for the state for each financial year in the next three financial years;
 - (iii) aggregate tax expenditure projection for the state each financial year in the next three financial years; and
 - (iv) minimum capital expenditure flow for the state for each financial year in the next three financial years;

Provided that the estimates and expenditure provided pursuant to paragraph (c) of this subsection, shall be based on reliable and consistent data certified in accordance with section 18 (2) (b) of this Law:-

- (d) targeted at achieving the macro-economic projections set out in pursuance of paragraph (a) of subsection (2) of this section.
- (e) Consistent with and derived from the underlying assumptions contained in the macro-economic framework, the objective policies, strategic priorities and explanations in the fiscal strategy paper.
- (f) a consolidated debt statement setting out and describing the fiscal significance of the debt liability of the government and measures to reduce any such liability; and
- (g) a statement describing the nature and fiscal significance of contingent liability and quasi-fiscal activities and measures to offset the crystallization of such liability:

*Aggregate
Expenditure
Ceiling*

- 19(1). The estimates of aggregate expenditure for a financial and aggregate amount appropriated by the House of Assémbly for each financial year shall not be more than the estimated aggregate revenue plus deficits, not exceeding 5% of the estimated gross domestic product (GDP).
- (2) The aggregate expenditure for a financial year may exceed the ceiling imposed by the provision of subsection (1) of this section, if in the opinion of the Governor; there is a clear and present threat to the security of the state.

PART IV- THE ANNUAL BUDGET

*Annual Budget to
be derived from
Medium Term
Expenditure
framework*

- 20(1) Notwithstanding anything to the contrary contained in this Law or any other Law, the medium term expenditure framework shall be the basis for the preparation of the estimates of revenue and expenditure required to be prepared and laid before the House of Assembly under section 121 (1) of the Constitution.
- (2) The sectoral and compositional distribution of the estimates of expenditure referred to in subsection (1) shall be consistent with the medium term development priorities set out in the medium term expenditure framework.

*Annual Budget to
be accompanied
by certain
documents*

- 21(1) The estimates of revenue and expenditure in the Law referred to as the annual budget shall be accompanied by:-
- (a) a copy of the underlying revenue and expenditure profile for the next two years:-
 - (b) a report setting out actual and budgeted revenue and expenditure and detailed analysis of the performance of the budget for 18 months up to june of the preceding financial year;
 - (c) a revenue framework broken down into monthly collection targets prepared on the basis of the predetermined reference commodity price as contained in medium term expenditure framework;
 - (d) a fiscal target appendix derived from the underlying medium term expenditure framework setting out the following targets for that financial year;
 - (i) target inflation rate;
 - (ii) indicator of fiscal account balances;

- (iii) any other development indicator deemed appropriate; and
- (e) fiscal risk appendix evaluating the fiscal and other related risk to the annual budget and specifying measure to be taken to offset the occurrence of such risk.

**PART V – BUDGETARY PLANNING OF CORPORATIONS
AND OTHER RELATED AGENCIES.**

Preparation of estimates of Revenue and Expenditure by corporation etc

- 22(1). All government corporations, agencies and government owned companies shall not later than six months from the commencement of this Law and for every three financial years therefore, not later than the end of the second quarter of every year, cause to be prepared and submitted to the Commissioner of Finance (recurrent) and their estimates of revenue and expenditure for the next three financial years.
- (2) each of the bodies referred to in subsection (1) shall submit to the commissioner not later than end of August in each financial year;
- (i) an annual budget derived from the estimates submitted in pursuance of subsection (1); and
 - (ii) Projected operating surplus which shall be prepared in line with acceptable accounting practices.
- (3) The Commissioner shall cause the estimate submitted in pursuance of section (2) of this section to be attached as part of the Appropriation Law to be submitted to the House of Assembly.

Creation of operating surplus and general reserved funds.

- 23 (1) Notwithstanding the provision of any Law governing a corporation, it shall establish a reserve fund and shall allocate thereto at the end of each financial year, one-fifth of its operating surplus for the year.
- (2) The balance of the operating surplus shall be paid to the consolidated revenue fund of the state government not later than one month following the statutory deadline for publishing each corporation's accounts.

Surplus and losses of Corporation

- 24 (1) The corporation's surplus shall be classified as the State Treasury Revenue.

- (2) Where a corporation's result is a deficit, it shall be classified as the corporation's loss for the fiscal year.
- (3) Each corporation shall not later than three months after the end of its financial year, cause to be prepared and published its audited financial reports in accordance with such rules as may be prescribed from time to time.

Effect of privatization

25. The provision of section 26, 27 and 28 shall cease to apply to any of the corporations from the date of its privatization.

PART VI- BUDGET EXECUTION AND ACHIEVEMENT OF TARGETS

Annual cash plan

- 26 (1) The state government's annual cash plan shall be prepared by the Office of the Account-General of the State.
- (2) The annual cash plan shall be prepared in advance of the financial year setting out projected monthly cash flows and shall be revised periodically to reflect actual cash flows.

Disbursement Schedule

27. The Commissioner shall within 30 days of the enactment of the Appropriation Law prepare and publish a disbursement schedule implementing the Appropriation Law.

Power of Commissioner to recommend virement

- 28 (1) The sums appropriated for a specific purpose shall be used solely for the purpose specified in the Appropriation Law.
- (2) The Commissioner shall, without prejudice to subsection (1) of this section, provisions of the Appropriation Law, other circumstances and in the overall public interest, recommend virement from sub-heads of account with exceeding the amount appropriated to such heads of accounts.

Power to restrict other commitments

29. (1) Whereby at the end of three months after the enactment of the Appropriation Law, the Commissioner determines that the targeted revenues may be insufficient to fund the heads of expenditure in the Appropriation Law,

the Commissioner shall within the next 30 days of such determination, take appropriate measures to restrict further commitment and financial operations.

- (2) Where the targeted revenues are re-established, either in part or in full, the appropriations for which further commitments were restricted shall be restored proportionately.
- (3) The provisions of subsection (1) and (2) of this section shall not apply to statutory or constitutional expenditures.

*Responsibilities
of the
Commissioner*

- 30 (1) The Commissioner, through the budget office shall monitor and evaluate the implementation of the annual budget, assess the attainment of the fiscal targets and report thereon on a quarterly basis to the Agency and the Joint Financial Committee of the House of Assembly.
- (2) The Commissioner shall cause the report prepared pursuant to subsection (1) of this section to be published in the print and electronic media and on Ministry of Finance website, not later than 30 days after the end of each quarter.

*The application of
part vi to Local
Governments*

- 31(1) In implementing their annual budgets, Local Governments shall be guided by and adopt the provisions of this law with such modifications as may be appropriate and necessary.
- (2) The department of budget and planning shall on or before one year after the enactment of this Law, issue guidelines for the full application of this Law to Local Governments.
- (3) The department of budget and planning shall from time to time develop and implement capacity building plan for relevant Local Government staff and officers to ensure full application of the Law.

PART VII- STATE STABILIZATION ACCOUNT

*State Stabilization
Account*

32. The State shall for the purpose of macro-economic

stability establish and maintain a state Stabilization Account with any reputable Commercial Bank operating in the State which shall form part of the State's strategic fund.

Savings in the State
Stabilization Account

33. There shall be paid into and saved into the State Stabilization Account:
- (i) Any extra revenue accruing to the State from the Federation Account; and
 - (ii) Such extra sum as the Governor may on the advice of the commissioner by order direct.

Permitted use of
Fund in the State
Stabilization
Account

34. Subject to section 39 of the Law, funds standing to the credit of the State Stabilization Account may only be applied for the following purposes and no other;
- (a) Augmenting shortfall in budgeted expenditure for the implementation of a duly enacted Appropriation Law arising from a sustained fall;
 - (b) Funding high impact, economically viable infrastructural projects pursuant to an Appropriation Law enacted in the year following the accrual of such sums to the State Stabilization Account.
 - (c) Investing in such independently rated securities, instruments and funds expressly recommended by the Central Bank of Nigeria.

Other limitation on
the funds in state
stabilization
Account

35. Not more than 50% of the fund standing to the credit of the State Stabilization Account in any financial year may be applied toward the purpose specified in paragraphs (b) and (c) of section 34 of this Law.

Accruals in
Stabilization
Account

36. Accruals to the State Stabilization Account shall be capped at the sum equivalent to the aggregate that accrued to the State from the Federation Account for the preceding ten years or such higher sum as the Governor may with the approval of the State House of Assembly specify by order published in the Gazette.

PART VIII- PUBLIC REVENUE AND EXPENDITURE

Revenue Forecast
and duty of
Executive to
Breakdown
estimated revenue

- 37(1) The executive arm of government shall at least 30 days before the deadline for the submission of its budget proposals, place at the disposal of the House of Assembly, the revenue estimates for the following year which shall include the net current and the respective memorandum items.
- (2) Estimated revenue shall be broken down by the executive arm of government into monthly collection target, including where applicable, a separate description of measures to combat fraud and evasion.
- (3) For the purpose of accountability, all revenue collecting Ministries, Departments and Agencies shall remit, on monthly basis or as may be advised, all revenues collected on behalf of the State Government to the account designated for the purpose by the Accountant-General of the State in the manner prescribed in an extant Treasury Circular to be issued from time to time.
- (4) All revenues collected shall not be spent by the Public collecting Ministry, Department or Agency without appropriation;
- (5) Failure to adhere to the provisions of this section shall be an offence under this Law.

Conditions for
remittance

- 38.(1) The creation, expansion or improvement in government action of public revenue which results in an expenditure increase shall be accompanied by;
- (a) A statement by the person requesting for the expenditure, stating that the increase is consistent with the Appropriation Law and the Medium- Term Expenditure Framework.
- (b) An estimate of the budgetary or financial impact in the year it become effective and in the two subsequent years.
- (2) The provisions of this section shall not apply to expenditure deemed inconsequential.
- (3) The granting if any advantage or increase of remuneration, the creation of posts or alteration of

career structures and admission of personnel on any account by bodies and entities including foundations established and maintained by State Government shall only be effected if there is a prior budgetary allocation sufficient to cover the estimated expenditure.

All contracts to comply with guidelines/ effect of violation of rules

- 39(1). All contracts with regards to the execution of Rules and annual budget shall comply with the rules and guidelines on:
- (a) Procurement and award of contract; and
 - (b) Due process and certification of contracts.
- (2) Any violation of or non-compliance with the requirements of section 37(3), 38 (1), and 39 shall be an offence punishable under this Law.

PART IX- PUBLIC DEBT AND DEBT MANAGEMENT

Objectives of public Debt Management

- 40 (1) The objectives of public debt management are to ensure that the State government's financing needs are maintained within the approved thresh hold and payment obligations are met at the lowest possible cost over the medium to long term, with prudent degree of risk, and to promote development while ensuring the equitable sharing of benefits and burdens of public debt between current and future generation.
- (2) The Debt Management Office shall maintain proper and up to date records of all public debts and render regular reports in accordance with the guidelines issued by the Debt Management Office of the Federation.

Rules for borrowing

- 41(1). The framework for debt management during the financial year shall be based on the following rules:
- (a) The state and local governments shall only borrow for capital expenditure and human development, provided that such borrowing shall be on concessional terms with low interest rate and with a reasonably long amortization period subject to the approval of the House of Assembly;

- (b) Subject to the overall consolidated debt limit set pursuant to the provisions of section 42 of this Law.
- (c) The state government shall ensure that the level of public debt as a proportion of the state income is held at a level as prescribed by the House of Assembly which shall be subject to the approved threshold and guidelines issued by the Debt Management Office of the Federation.
- (d) Notwithstanding the provision of paragraph (a) and subject to the approval of the House of Assembly, the state government may borrow from the capital market.
- (2) Non-compliance with the provision of this section shall be an offence and punishable on conviction to imprisonment for a term of not less than five years or with fine of not less than **N25,000,000 (Twenty-Five Million Naira)**.

Borrowing entity to specify purpose

- 42(1). The state government or its agencies and corporations and any local government desirous of borrowing, shall specify the purpose for which the borrowing is intended and present to the House of Assembly a cost-benefit analysis, detailing the economic and social benefits of the purpose to which the intended borrowing is to be applied.
- (2) Without prejudice to section (1) of this section, each borrowing shall comply with the following conditions;
- (3) The existence of prior authorization in the appropriation Law or other Law for the purpose for which the borrowing is to be utilized; and
- (4) The proceeds of such borrowing shall solely be applied towards long term capital expenditure.

Banks to comply with borrowing rules

- 43(1) Every bank and financial institution shall request and obtain proof of compliance with the provisions of this part before lending to tiers of government.
- (2) Lending by any bank or financial institution in contravention of this part shall be an offence and punishable on conviction to a fine of not less than **N25,000,000 (Twenty-Five Million Naira)** and

Commissioner to
Guarantee Local
Governments

a term of imprisonment for any individual involved in the approval or disbursement of the loan to a jail term of not less than two years.

- 44(1) Subject to the provisions of this part, the Commissioner may, with the approval of the State Executive Council, grant guarantees on behalf of any local government in the state.
- (2) Any guarantee granted by the Commissioner shall be conditional upon the provision of a counter guarantee in an amount equal to or higher than the guarantee obligation provided that they are non-overdue obligations for the requesting local government to the guarantor and such counter- guarantor required from the local government may consist in the appropriation of tax revenue directly collected and resulting from statutory transfers, and the guarantor shall be authorized to retain such revenue and use the respective amount to repay overdue debts.
- (3) In the case of foreign currency borrowing, the Federal government guarantee shall be the requirement and neither the state nor local government shall on its own borrow externally.
- (4) Any guarantee provided in excess of the debts limits prescribed in this Law or any other Law shall be an offence.

PART- X TRANSPARENCY AND ACCOUNTABILITY

Government to
ensure
transparency

- 45(1) The State shall ensure that all its fiscal and financial affairs are conducted in a transparent manner, and accordingly, shall ensure full and timely disclosure and wide publication of all expenditure and their fiscal significance.
- (2) The State House of Assembly shall ensure transparency during the preparation and discussion of the medium-term expenditure framework, annual budgets and Appropriation Law.

Publishing of
budget
performance

- 46(1). The State Government through its budget office shall not later than 6 months after the end of the financial year, publish a consolidated budget

execution showing implementation against physical targets for submission to the House of Assembly and dissemination to the public.

- (2) The State, Local Government and Agencies of Government shall publish their audited Agencies accounts not later than six months following the end of each financial year.
- (3) The State Local Government and Agencies of Government shall, not later than 6 months following the commencement of this Law and thereafter, not later than 6 months following the end of each financial year, consolidate and publish in the mass media, their audited accounts for the previous year.
- (4) The publication pursuant to subsection (3) above shall be the responsibility of the office of the Accountant – General of the State.
- (5) The Accountant-General of the state shall, not later than 9 months following the end of the financial year, cause to be consolidated and published in the media the accounts of all government agencies.

Publication of a summarized report on budget execution

47. The executive arm of the State and Local Governments through their budget office shall within 30 days after the end of each quarter, publish a summary of budget execution in such budget form as may be prescribed by the Agency and not later 6 months after the end of the financial year, the commissioner shall publish a consolidated budget execution report showing implementation against physical and financial performance targets.

PART XI – ENFORCEMENT

Locus stand and pre-action notice

48. Any person shall have legal capacity to enforce the provisions of this law by obtaining prerogative orders or other remedies at the state High Court, without showing any special or particular interest. Provided that no action shall be commenced unless a 30 days written notice of intention to sue by the intended claimant shall be given through the

office of the Attorney-General to the appropriate government department charged with implementation of the provision in questions drawing its attention to non-compliance with provisions of this Law

PART XI – ENFORCEMENT

Offences relating to contract, pecuniary undertaking public funds not appropriated

49. Any person being an official or public servant serving in any capacity in any arm of government of the state; who dishonestly, fraudulently or negligently appropriates, approves the award of, executes, or witnesses any instrument relating to such award or pecuniary undertaking with any person or contractor for the provision of public goods, social and economic services and infrastructure in the state, knowing that such service is not appropriate for in an appropriation law or the existing Medium- Term Fiscal Framework shall be guilty of an offence and on conviction be punished with a term of imprisonment which may extend to five years or with a fine of not less than Two Million Naira or both.

Offences relating to borrowing

50. Any person being an official or public servant serving in any arm of government of the state who dishonestly, fraudulently or negligently approves the borrowing, or executes any instrument for borrowing knowingly or having the means of knowing that:
- (a) The borrowing is for a purpose not appropriate for in extent Appropriation law; or
 - (b) The borrowing exceeds the aggregate expenditure limit specified in the Medium Term Framework; or
 - (c) The borrowing exceeds the overall consolidated debt limits; or
 - (d) The borrowing exceeds the aggregate debt limits specified in the Medium Term Framework, guilty of an offence and shall upon conviction be punished with a term of imprisonment of not less than two (2) years and to a fine of not less than N1,000,000.00 (One Million Naira)

Destruction of documents and false entry of record

51. Any person who intend to defraud or conceal a crime or frustrate the Agency in its investigation of any suspected crime or corruption under this Law or under any other law:-
- (a) either destroys, alters, mutilates, or falsifies any book, documents, valuable security, account, computer system, diskette, computer printout or any other electronic device which belongs to or is in the possession of his employer, or has been received by him on the account of his employment, or any entry in any such book, documents or electronic device, or is privy to any such Law; or
 - (b) Makes or omits, or is privy to making any false entry or omits to make the proper entry in any such book, document, account or electronic records; is guilty of an offence and shall on conviction be liable to imprisonment for a term of not less than three (3) years or a fine of not less than one million, five hundred thousand naira or both.

Giving false statement in respect of money or property received by an officer

52. Any person who, being an officer charged with the receipt, custody, use or management of any part of the public revenue or property, knowingly furnishes any false statement or return in respect of any money or property received by him or entrusted to his care , or any balance of money or property in his possession or under his control, is guilty of an offence, and shall on conviction be liable to imprisonment for a term of not less 3 years or pay a fine of not less than one million, five hundred thousand naira or both

Failure to honour invitation or withholding information

53(1). Any person who:

- (a) Fails, refuses or neglects to honour the invitation or summons of the Agency in respect any matter that the Agency is investigating or reviewing;
- (b) Fails, refuses or neglects to avail the Agency with any information or document within fourteen days (14) of a demand
- (c) In any manner whatsoever obstructs the work of the

agency; shall be guilty of an offence and liable on conviction in the case of an individual to a term of imprisonment of not less than one (1) year and in the case of a corporate body, it shall be liable to a fine of not less than ten Million naira (N10,000,000.00) as well as the term of years' imprisonment for not more than 5 years for any of its officers or employees

(2) Any person who:

(a) Fails, or neglects to secure compliance with the provision of this Law:

(b) Fails or neglects to secure the authenticity of any statement submitted pursuant to the provisions of this Law; commits an offence and is liable on conviction to imprisonment for a term not exceeding 3 years or to a fine of two Hundred and fifty Thousand Naira (N250, 000, 00) or to both such imprisonment and fine.

Punishment where no penalty is provided

54. Any person who commits an offence under the provisions of this Law where no punishment has been prescribed is liable on conviction to a term of imprisonment which shall not be less than (1) one year or with fine of not less than Five Hundred Thousand naira (N500, 00.00) or with both.

Agency may Compound offences

55. The agency may compound any offence punishable under this Law under such term or terms as may be approved by the Attorney-general.

Jurisdiction to try offences

56. The State High Court shall have the original jurisdiction to try offences created under this Law.

PART XIII: UTILIZATION OF RECOVERED FUNDS

Utilization of recovered funds

57. The agency shall;

(1) Retain five percent, (5 %) of all monies recovered by it and shall utilize such retained funds for operational

- expenses to supplement its budget;
- (2) The residue of all funds recovered after the deduction in subsection (1) of this section shall be paid into any account to be designated by the State Government and such residual money shall only be appropriated by the State Government for the purpose of construction of roads and the improvement of health, agricultural, educational, housing and infrastructural developments and improvement of the Justice sector.

PART XIV: MISCELLANEOUS PROVISIONS

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| Limit of debts for consolidated securities | 58. A State Law may set in a limit for consolidated debt securities, borrowing and granting of guarantees lower than the one provided for pursuant to this Law. |
| Government securities as collateral to guarantee loans | 59. Government securities, provided that they are duly listed on the Stock Exchange, may be offered as collateral for loans or other financial transactions under this Law for their economic value as defined by the ministry of Finance. |
| Restriction on utilization of | 60. The proceed securities derived from the sale or transfer of public properties and rights over public assets shall not be used. |
| Condition for Local Government Contribution | 61. A Local Government shall only contribute to cover cost of expenditure incurred by the other tiers of Governments, if authorized in a covenant, accord, or any similar arrangement. |
| Technical & Financial Assistance to Local Governments | 62. The state may provide technical and financial assistance to local governments for the modernization of their respective tax, financial and assist administration for the purpose of complying with the provisions of this Law. |
| Interpretation of other Laws | 63. In the event of any inconsistency between the provisions of this Law and the provisions of any other state legislation, the provisions of this Law shall prevail and the provisions of that other legislation shall, to the extent of its inconsistency be void. |

64. No number, staff, or officer of the Agency shall be personally liable for any act or omission done in the course of carrying out his or her official duties under the provisions of this Law.

SCHEDULE


PRINCIPLES OF SOUND FINANCIAL MANAGEMENT

The principles of sound financial management are that government shall:-

- (i) Pursue spending and taxing policies that are consistent with a reasonable degree of stability and predictability;
- (ii) Hinge all spending on a definitive macro-economic framework, at a minimum, medium term horizon and which assures a prudent balance between available resources and planned spending;
- (iii) Ensure that the scale and focus of spending is dictated by policy and the state strategic priorities;
- (iv) Ensure optimal value for all Government spending;
- (v) Maintain the integrity of the State Revenue Collection System
- (vi) Ensure that its policy of the decisions have regard to their financial effect on future generation;
- (vii) Provide full, accurate and timely disclosure of financial information relating to the activities of the Government and its agencies so as to ensure transparency and accountability; and
- (viii) Manage financial risks faced by the state prudently, having regard to economic circumstances.

EXPLANATORY NOTE

This printed impression has been carefully compared by me with the Bill which has been passed by the Borno State House of Assembly and found by me to be a true and correctly printed copy of the Law.


IBRAHIM AUDU NGULDE
CLERK OF THE BORNO STATE
HOUSE OF ASSEMBLY